

AMENDED IN ASSEMBLY JULY 1, 2010

**SENATE BILL**

**No. 686**

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**Introduced by Senator DeSaulnier**

February 27, 2009

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~~An act to amend Section 21086 of the Public Resources Code, relating to the environment. An act to add Part 4 (commencing with Section 11975.10) to Division 10.5 of the Health and Safety Code, to amend Section 11165.7 of the Penal Code, and to amend Section 15630 of the Welfare and Institutions Code, relating to public health.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 686, as amended, DeSaulnier. ~~Environment: CEQA exemption: addition and deletion.~~ *Alcohol and other drug counselor licensing and certification.*

*Existing law provides for the registration, certification, and licensure of various healing arts professionals, including, but not limited to, setting forth the scope of practice, establishing the regulatory boards, department, or bureaus, and setting forth the powers and duties of these entities.*

*This bill would establish similar registration, certification, and licensure provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs, and would authorize the department to commence issuing these licenses, registrations, and certificates on January 1, 2012, and would make conforming changes related to child, elder, and dependent adult abuse reporting provisions. The bill would make a violation of these provisions a misdemeanor, and would specify various unlawful acts related to its provisions. The bill would authorize the department to assess related fees, and would require deposit of the fees into the Alcohol and Other*

*Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature.*

*By establishing a new crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The California Environmental Quality Act requires the Office of Planning and Research to adopt guidelines that include criteria for public agencies to follow in determining whether or not a proposed project may have a significant effect on the environment and a list of classes of projects that are exempted from the act's requirements. The act establishes procedures for the certification and adoption of the guidelines. The act authorizes a public agency to request, in writing, the addition or deletion of a class of projects to the list. The office is required to review each request and, as soon as possible, submit its recommendation to the Secretary of Natural Resources Agency.~~

~~This bill would make technical, nonsubstantive changes to the provision regarding the addition or deletion of a class of projects.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Part 4 (commencing with Section 11975.10) is  
2     added to Division 10.5 of the Health and Safety Code, to read:

3

4     PART 4. ALCOHOL AND OTHER DRUG COUNSELOR  
5     LICENSING AND CERTIFICATION

6

7             CHAPTER 1. GENERAL PROVISIONS

8

9     11975.10. This part shall be known, and may be cited, as the  
10    Alcohol and Other Drug Counselor Licensing and Certification  
11    Act.

1     11975.15. For purposes of this part, the following terms have  
2     the following meanings:

3     (a) “Registrant” or “ RAODC” means an uncertified or  
4     unlicensed person who is in the course of completing the  
5     requirements for certification or licensure under this part and who  
6     is registered with a Counselor Preparation and Testing  
7     Organization (CPTO).

8     (b) “Certified Alcohol and Other Drug Counselor” or  
9     “CAODC” means a person certified by the department pursuant  
10    to Section 11975.35 or 11975.36 to practice alcohol and other  
11    drug counseling in a program licensed or certified by the  
12    department under this division.

13    (c) “Intern” means a person certified by the department who  
14    is preparing for licensure.

15    (d) “Licensed Alcohol and Other Drug Counselor” or  
16    “LAODC” means a person licensed by the department pursuant  
17    to Section 11975.40 or 11975.42 to practice alcohol and other  
18    drug counseling, who may provide clinical supervision to any other  
19    person licensed, certified, or registered under this part, and who  
20    may maintain an independent alcohol and other drug counseling  
21    practice outside of a program licensed or certified by the  
22    department pursuant to this part.

23    (e) “Independent counseling practice” means an individual or  
24    individuals who are licensed under this part to engage in the  
25    practice of alcohol and other drug counseling, as defined in Section  
26    11975.75, in a setting outside of a licensed facility or certified  
27    program.

28    (f) “Clinical supervision” means the ongoing process in which  
29    the supervisor participates with one or more supervisees to ensure  
30    high-quality service delivery across domains of counselor  
31    development, professional and ethical standards, program  
32    development, quality assurance, performance evaluation, and  
33    administration, as described in the Technical Assistance  
34    Publication Series No. 21, 2006 (TAP 21).

35    (g) “Advertise” includes, but is not limited to, the issuance of  
36    any card, sign, or device to any person, or the causing, permitting,  
37    or allowing of any sign or marking on or in any building or  
38    structure, or in any newspaper or magazine or in any directory,  
39    or any printed matter, with or without any limiting qualification.

40    “Advertise” also includes business solicitations communicated by

1 radio or television broadcasting, the Internet, or any other  
2 electronic medium.

3 (h) “Counselor Preparation and Testing Organization” or  
4 “CPTO” means a certifying organization as defined and used in  
5 Chapter 8 (commencing with Section 13000) of Division 4 of Title  
6 9 of the California Code of Regulations, including compliance  
7 with standards and terms of accreditation by the Institute for  
8 Credentialing Excellence (ICE).

9 (i) “Institution of higher learning” means an entity accredited  
10 by the Western Association of Schools and Colleges or an  
11 equivalent regional accrediting agency approved by the United  
12 States Department of Education, or compliant with the  
13 requirements of the Bureau for Private Postsecondary and  
14 Vocational Education (BPPVE) or its successor agency, the Bureau  
15 for Private Postsecondary Education, pursuant to the California  
16 Private Postsecondary Education Act of 2009 (Chapter 8  
17 (commencing with Section 94800) of Part 59 of Division 10 of  
18 Title 3 of the Education Code).

19 (j) (1) “TAP 21” means the publication published by the United  
20 States Department of Health and Human Services, Substance Abuse  
21 and Mental Health Services Administration, Center for Substance  
22 Abuse Treatment entitled, “Addiction Counseling Competencies,”  
23 Technical Assistance Publication Series No. 21, 2006, and, to the  
24 extent the department determines it to be consistent with this part,  
25 as that publication may be updated.

26 (2) “TAP 21A” means the publication published by the United  
27 States Department of Health and Human Services, Substance Abuse  
28 and Mental Health Services Administration, Center for Substance  
29 Abuse Treatment entitled, “Competencies for Substance Abuse  
30 Treatment Clinical Supervisors,” Technical Publication Series  
31 No. 21A, 2007, and, to the extent the department determines it to  
32 be consistent with this part, as that publication may be updated.

33 (k) “ICE” means the Institute for Credentialing Excellence,  
34 formerly the National Organization for Competency Assurance,  
35 which is a national organization that provides government and  
36 employers services that allow them to confirm the validity and  
37 reliability of a private certifying body.

38 11975.17. (a) There is within the department a seven-member  
39 Advisory Committee on Alcohol and Other Drug (AOD) Counselor  
40 Training, Certification, and Licensing.

1     ***(b) The advisory committee shall meet a minimum of four times***  
2     ***per year in order to review and issue recommendations to the***  
3     ***department on the following issues:***

4         ***(1) The department's implementation of this part.***

5         ***(2) Counselor education and examination issues.***

6         ***(3) Code of conduct and ethics issues.***

7         ***(4) Disciplinary actions.***

8         ***(5) Counselor performance.***

9         ***(6) Reciprocity provisions with other states.***

10        ***(7) Other pertinent issues related to counselor training,***  
11        ***certification, and licensing as the committee may decide.***

12     ***(c) (1) At least once every two years the advisory committee***  
13     ***shall issue a report to the department and the Legislature regarding***  
14     ***its findings and recommendations.***

15        ***(2) The requirement for submitting a report to the Legislature***  
16        ***imposed under this subdivision is inoperative four years after the***  
17        ***date the first report is due, pursuant to Section 10231.5 of the***  
18        ***Government Code.***

19        ***(3) A report submitted pursuant to this subdivision shall be***  
20        ***submitted in compliance with Section 9795 of the Government***  
21        ***Code.***

22     ***(d) For purposes of this section, a "public member" means a***  
23     ***person who is neither registered, certified, or licensed under this***  
24     ***part, nor who has a fiduciary duty to, any employment with, or***  
25     ***contractual interest in, any facility or program providing alcohol***  
26     ***and other drug treatment, or any group or organization***  
27     ***representing, or financially or legally associated with, any aspect***  
28     ***of the alcohol and other drug treatment community.***

29     ***(e) The seven members of the advisory committee shall be***  
30     ***appointed not later than January 1, 2012. Except for public***  
31     ***members, initial appointment and continued service on the advisory***  
32     ***committee is contingent upon the member being and remaining***  
33     ***certified or licensed under this part. Members shall be appointed***  
34     ***as follows:***

35        ***(1) Five members, at least one of whom shall be a public***  
36        ***member, appointed by the Governor. Up to four members may be***  
37        ***nonpublic members, including, but not limited to, certified or***  
38        ***licensed counselors, service providers, or a person representing***  
39        ***any aspect of the alcohol and other drug treatment community.***

1     (2) *One public member appointed by the Speaker of the*  
2 *Assembly.*

3     (3) *One public member appointed by the Senate Committee on*  
4 *Rules.*

5     (f) *The director may appoint no more than three nonvoting, ex*  
6 *officio members who may include a representative of the Little*  
7 *Hoover Commission, the department, the Assembly Select*  
8 *Committee on Alcohol and Drug Abuse, the Senate Committee on*  
9 *Health, or the Assembly Committee on Public Safety.*

10    (g) *The executive directors of the Board of Behavioral Sciences*  
11 *and the Board of Psychology shall also serve as nonvoting, ex*  
12 *officio members of the advisory committee.*

13    (h) *All committee members shall serve for terms of four years,*  
14 *except that the appointing power may remove a member without*  
15 *cause. If a member is removed, the member appointed as his or*  
16 *her replacement shall serve for the duration of the unexpired term.*  
17 *No committee member shall serve more than two consecutive terms.*  
18 *Committee members shall not be compensated but shall be*  
19 *reimbursed by the department for necessary expenses incurred in*  
20 *performing the duties of their membership on the committee.*

21    (i) *The committee shall select a chairperson each year, but no*  
22 *person shall be selected as the chairperson for more than two*  
23 *consecutive years.*

24    (j) *The committee may create subcommittees as it deems*  
25 *appropriate.*

26    (k) *The department shall provide support to the advisory*  
27 *committee from within its existing resources.*

28    11975.18. *The duties of the advisory committee established*  
29 *pursuant to Section 11975.17 shall include all of the following:*

30    (a) *Recommend to the director any changes to the definition of*  
31 *unprofessional conduct specified in Section 11975.95, that are*  
32 *consistent with generally accepted ethics codes.*

33    (b) *Periodically review and make recommendations regarding*  
34 *the efficacy of the complaint process adopted by the department*  
35 *pursuant to paragraph (4) of subdivision (b) of Section 11975.20.*

36    (c) *Review and provide recommendations on agreements and*  
37 *regulations proposed by the director to implement this part.*

38    (d) *Review and provide recommendations to the department*  
39 *regarding the department's reports of initial inspections of CPTOs*  
40 *conducted pursuant to paragraph (6) of subdivision (b) of Section*

1 11975.20, biennial inspections and unannounced inspections  
2 conducted pursuant to paragraph (7) of subdivision (b) of Section  
3 11975.20, and agencies seeking approval as a CPTO on a  
4 provisional basis pursuant to Section 11975.25.

5 (e) Provide recommendations to the director on any other  
6 matters pertaining to this part.

7 11975.19. (a) Upon receipt of a recommendation from the  
8 advisory committee, the director shall do one of the following  
9 within 30 business days:

10 (1) Initiate the rulemaking process to adopt the recommendation  
11 of the committee.

12 (2) Decline to initiate the rulemaking process and provide the  
13 committee with a written statement of reasons for the decision.

14 (3) Request that the committee provide additional information  
15 regarding the recommendation.

16 (4) Indicate to the committee that consultation with a particular  
17 agency or agencies may be required before responding to the  
18 committee's recommendation.

19 (b) All regulations adopted pursuant to this chapter shall be  
20 adopted in compliance with the Administrative Procedure Act  
21 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
22 Division 3 of Title 2 of the Government Code).

23  
24 CHAPTER 2. ADMINISTRATION  
25

26 11975.20. (a) The department shall administer and enforce  
27 this part.

28 (b) In order to carry out the provisions of this part, the  
29 department shall do, but shall not be limited to, all of the following:

30 (1) Adopt rules and regulations as necessary to administer and  
31 enforce this part. The adoption, amendment, and repeal of those  
32 rules and regulations shall be made in accordance with the  
33 rulemaking provisions of the Administrative Procedure Act  
34 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
35 Division 3 of Title 2 of the Government Code).

36 (2) Commencing January 1, 2012, issue licenses, certificates,  
37 and registrations to those who meet the qualifications of this part  
38 and any regulations promulgated pursuant to this part.

39 (3) Take disciplinary action against counselors and registrants,  
40 as appropriate, including reprimand or probation, suspension, or

1 *revocation of the license, certificate, or registration, issuance of*  
2 *administrative citations, or imposition of administrative fines not*  
3 *to exceed five thousand dollars (\$5,000), or any combination of*  
4 *these for failing to comply with the terms of this part.*

5 *(4) Adopt regulations not later than January 1, 2013, for the*  
6 *receipt, investigation, and resolution of complaints made by or*  
7 *against registrants and certified and licensed counselors.*

8 *(5) Maintain a database of registrants, and certified and licensed*  
9 *counselors, including the individual's status, any public record of*  
10 *discipline, and other information as the department may adopt by*  
11 *regulation. The department shall also maintain on its Internet Web*  
12 *site a current, simple listing of all registrants and counselors*  
13 *against whom a finalized disciplinary action has been taken,*  
14 *including the specific disciplinary action ordered.*

15 *(6) On or before January 1, 2012, conduct an initial review of*  
16 *each CPTO and make a determination as to whether each CPTO*  
17 *has met the qualifications and requirements of this part. If a CPTO*  
18 *is determined to have met these qualifications and requirements,*  
19 *the department shall confirm its status as a CPTO for the purposes*  
20 *of preparing and testing applicants. If the department determines*  
21 *that a CPTO has not met one or more of the qualifications or*  
22 *requirements, the department may take any of the appropriate*  
23 *actions specified in subparagraphs (D) and (E) of paragraph (7).*  
24 *The findings of these reviews shall be made available to the*  
25 *advisory committee established pursuant to Section 11975.17, and*  
26 *to the public within 60 days of conducting the review.*

27 *(7) (A) Commencing January 1, 2014, inspect each CPTO and*  
28 *each CPTO with provisional status once every two years to ensure*  
29 *compliance with applicable requirements and regulations,*  
30 *including continuing compliance with the terms and standards by*  
31 *which the CPTO was accredited by the ICE. The findings of these*  
32 *inspections shall be made available to the advisory committee*  
33 *established pursuant to Section 11975.17, and to the public within*  
34 *60 days of conducting the review.*

35 *(B) The department may inspect, at any time, with or without*  
36 *providing prior notice, any CPTO to ensure compliance.*

37 *(C) A CPTO shall comply with all state regulations and with*  
38 *the terms of its ICE approval.*

39 *(D) The department shall take disciplinary action against*  
40 *CPTOs, as appropriate, including reprimand or probation, issuing*



1 *an order to take corrective action, suspension, or revocation of*  
2 *the CPTO's status, imposition of administrative fines not to exceed*  
3 *ten thousand dollars (\$10,000), or any combination of these for*  
4 *failing to comply with the terms of this part.*

5 *(E) If the department suspends or revokes the status of a CPTO,*  
6 *the department shall determine the appropriate means for*  
7 *licensees, certificants, and registrants who are affiliated with that*  
8 *CPTO to transfer their credit earned toward meeting the education*  
9 *and work experience requirements of this part, as appropriate, to*  
10 *another CPTO.*

11 *(8) Create a process by which a CPTO is required to submit a*  
12 *request for registration to the department on behalf of an applicant,*  
13 *including a recommendation and summary of the person's*  
14 *qualifications, at the time a person applies to a CPTO for status*  
15 *as an RAODC. The department may establish a requirement that*  
16 *a CPTO provide an applicant's portfolio that includes all the*  
17 *documentation concerning the applicant's qualifications not more*  
18 *than five business days after the documentation is requested by*  
19 *the department. The department also may establish, by regulation,*  
20 *recordkeeping requirements for applicants' portfolios. The*  
21 *department shall, after seeking recommendations from the advisory*  
22 *committee, adopt regulations to implement this paragraph not*  
23 *later than January 1, 2012.*

24 *(9) Create a process by which a CPTO is required to submit a*  
25 *request for certification to the department on behalf of an applicant*  
26 *who has been an RAODC and who meets all the requirements for*  
27 *certification, including a recommendation and a summary of the*  
28 *RAODC's qualifications, at the time the RAODC applies to the*  
29 *CPTO for certification as a CAODC. The department may establish*  
30 *a requirement that a CPTO provide an applicant's portfolio that*  
31 *includes all the documentation concerning the applicant's*  
32 *qualifications not more than five business days after the*  
33 *documentation is requested by the department. The department*  
34 *also may establish, by regulation, recordkeeping requirements for*  
35 *applicants' portfolios. The department shall, after seeking*  
36 *recommendations from the advisory committee, adopt regulations*  
37 *to implement this paragraph not later than January 1, 2012.*

38 *(10) Create a process by which a CPTO is required to submit*  
39 *a request for licensure to the department on behalf of an applicant*  
40 *who has been a CAODC and who meets all the requirements for*

1 licensure, including a recommendation and a summary of the  
2 person's qualifications, at the time the CAODC applies to the  
3 CPTO for licensure as an LAODC. The department may establish  
4 a requirement that a CPTO provide an applicant's portfolio with  
5 all the documentation concerning the applicant's qualifications  
6 not more than five business days after the documentation is  
7 requested by the department. The department also may establish,  
8 by regulation, recordkeeping requirements for applicants'  
9 portfolios. The department shall, after seeking recommendations  
10 from the advisory committee, adopt regulations to implement this  
11 paragraph not later than January 1, 2012.

12 11975.25. (a) A CPTO shall do all of the following:

13 (1) Maintain a business office in the state and advise the  
14 department and the ICE of that address and any changes to that  
15 address.

16 (2) Be accredited with the ICE as of January 1, 2010,  
17 continuously maintain accreditation, including accreditation  
18 renewals as required by the ICE, and abide by all terms of its ICE  
19 accreditation, including all final documentation presented to the  
20 ICE regarding the CPTO's organizational requirements and  
21 counselor education and testing provisions.

22 (3) Maintain an electronic database of all persons affiliated  
23 with the CPTO through registration, certification, and licensure  
24 that includes enough information to allow the CPTO to provide  
25 the department the information required by subdivisions (h),  
26 paragraphs (8), (9), and (10) of subdivision (b) of Section  
27 11975.20.

28 (4) Comply with the requirements of this part.

29 (b) The department shall, commencing January 1, 2014,  
30 consider approving as a CPTO any other agency not accredited  
31 with the ICE as of January 1, 2010, if the department determines  
32 that the agency has gained ICE accreditation after that date, the  
33 agency complies with all of the other provisions of this subdivision,  
34 and pays an initial review fee in the same amount as specified in  
35 subdivision (c) of Section 1177.15. Approval as a CPTO pursuant  
36 to this subdivision shall be on a provisional basis for a period of  
37 three years during which time the department shall inspect the  
38 CPTO at least once under the terms of subparagraph (A) of  
39 paragraph (7) of subdivision (b) of Section 11975.20.

CHAPTER 3. REGISTRATION

11975.30. (a) Commencing January 1, 2012, the department shall issue a Registered Alcohol and Other Drug Counselor (RAODC) registration to a person, within 30 business days after receiving a request for registration for the person from a CPTO, if the person has met all of the following requirements:

(1) Completed and submitted an application for registration to a CPTO.

(2) Completed an introductory alcohol and other drug abuse class approved by the CPTO before providing any of the services defined within the scope of practice specified in Section 11975.75, that includes instruction as follows:

(A) At least eight hours of education in the subject of law and ethics as it relates to a registrant's ability to practice alcohol and other drug abuse counseling safely. This education may include, but need not be limited to, education in the legal and regulatory aspects of alcohol and other drug abuse treatment, regulatory restrictions, confidentiality issues surrounding clients' rights, including those pursuant to the federal Health Insurance Portability and Accountability Act (HIPAA), what constitutes unprofessional conduct under this part, and the standards of competency for the practice of alcohol and drug abuse counseling.

(B) At least eight hours of education in an orientation class in the field of addiction treatment that includes screening and referral.

(3) Signed the CPTO's Code of Ethics.

(4) Submitted a live fingerprint scan as specified in subdivision (b) of Section 11976.35.

(5) Submitted to a state and federal level criminal offender record information search and passed both background checks as specified in Section 11976.35.

(6) Paid the required fees as specified in Section 11977.15.

(b) A registrant may provide support services, including all of the services specified in Section 11975.75, to certified or licensed counselors, but shall not carry a caseload, or perform group or individual counseling in an unsupervised environment.

(c) A CPTO shall be responsible for notifying the department regarding each applicant's completion of the requirements specified in subdivision (a).

1 (d) Before a person may begin obtaining work experience for  
2 certification or licensure, he or she is required to be registered  
3 with a CPTO and is required to have received an RAODC  
4 certification from the department.

5 (e) A registrant shall renew his or her registration at least once  
6 every two years with a CPTO.

7 11975.31. (a) All registrants shall obtain a minimum of 30  
8 hours of education per year working toward certification in alcohol  
9 and other drug treatment in an institution of higher learning in a  
10 program that provides courses of study that may be applied toward  
11 the 315 hours of education, as specified in Section 11975.36, in  
12 not more than five years in order for registrants to meet the  
13 education requirements for CAODCs. Hours of education that are  
14 offered as continuing education units shall not apply to the 30  
15 hours of education per year required by this subdivision.

16 (b) A CPTO shall revoke the registration of a registrant who  
17 has been registered for more than five years, but has not received  
18 certification, unless the CPTO determines that unusual or  
19 extenuating hardships existed for the individual preventing him  
20 or her from completing the requirements within the five-year  
21 period. If a CPTO makes this determination regarding an  
22 individual, then the CPTO may grant the individual an extension  
23 of up to three additional years to complete all certification  
24 requirements. Every revocation or extension action taken by a  
25 CPTO under this subdivision shall be reported to the department  
26 within five business days. The CPTO shall enter this information  
27 into its database no later than the time at which it notifies the  
28 department. The department shall enter and display the information  
29 in its database within five business days of receiving notification  
30 from a CPTO.

#### 31 CHAPTER 4. CERTIFICATION

32  
33  
34 11975.35. Commencing January 1, 2012, and until the  
35 disposition of all complete applications actually received by the  
36 department prior to January 1, 2014, the department shall issue  
37 a Certified Alcohol and Other Drug Counselor (CAODC)  
38 certificate, within 30 business days, to a person who the department  
39 determines was certified as a counselor on or before December  
40 31, 2011, in accordance with regulations of the department in

1 effect on that date, and who has met all of the following  
2 requirements:

3 (a) Completed and submitted an application for certification to  
4 a CPTO.

5 (b) Submitted to a state and federal level criminal offender  
6 record information search and passed both background checks as  
7 specified in Section 11976.35.

8 (c) Paid the required fees as specified in Section 11977.15.

9 11975.36. Commencing January 1, 2012, the department shall  
10 issue a Certified Alcohol and Other Drug Counselor (CAODC)  
11 certificate within 30 business days to a person if all of the following  
12 requirements are met:

13 (a) The department receives documentation pursuant to  
14 paragraph (9) of subdivision (b) of Section 11975.20 from a CPTO  
15 that the person has met either of the following requirements:

16 (1) Completed the education requirements of, passed the  
17 examination administered by, and completed all other  
18 requirements, including work experience requirements, of the  
19 CPTO.

20 (A) Education requirements must include a minimum of 315  
21 classroom hours and 160 hours of a supervised practicum.

22 (B) The examination administered by a CPTO shall be  
23 psychometrically validated to the appropriate level of education  
24 and shall examine the person's knowledge of the materials as  
25 specified in Section 11975.45.

26 (2) Possesses an earned associate of arts or associate of science  
27 in alcohol and drug counseling, or other equivalent degree  
28 recognized by the department from an institution of higher  
29 learning, and has completed 160 hours of a supervised practicum,  
30 and passed a test administered by a CPTO as specified in Section  
31 11975.50.

32 (b) Completed 2,080 hours of work experience, as specified in  
33 Section 11975.60, that are within the scope of practice of a  
34 counselor specified in Section 11975.75. The work experience must  
35 be gained within six years of the application for certification.

36 (c) Submitted to a state and federal level criminal offender  
37 record information search and passed both background checks as  
38 specified in Section 11976.35.

39 (d) Paid the required fees as specified in Section 11977.15.

1 (e) Completed the application for a certificate and satisfied any  
2 other requirements of this part for certification as a CAODC.

3 (f) The CPTO shall be responsible for notifying the department,  
4 in a manner the department may specify, of pertinent information  
5 regarding each applicant's completion of the requirements  
6 specified in subdivisions (a) and (b). The individual applying to  
7 the department for certification is responsible for meeting the  
8 requirements imposed by subdivisions (c), (d), and (e), and for  
9 payment of fees. Upon receiving all of the required information  
10 and payment of fees, the department may, with cause, contact the  
11 CPTO to elicit additional information regarding any particular  
12 application for certification.

13 (g) The department shall issue the certification not more than  
14 30 business days following the date on which the department  
15 receives all required documentation, including payment of fees,  
16 unless a finding is made that a particular application for  
17 certification should be delayed or denied pursuant to due process  
18 provisions of this part.

19  
20 *CHAPTER 5. LICENSURE*

21  
22 11975.40. Commencing January 1, 2012, and until the  
23 disposition of all completed applications actually received by the  
24 department by June 30, 2013, the department shall issue a Licensed  
25 Alcohol and Other Drug Counselor (LAODC) license, within 30  
26 business days, to a person who the department determines was  
27 certified as a counselor on or before December 31, 2011, in  
28 accordance with regulations of the department in effect on that  
29 date, if the person has met one of the following requirements:

30 (a) Possesses an earned master of arts, master of science, or  
31 doctoral degree in alcohol and drug counseling, psychology, social  
32 work, marriage, family and child counseling, marital and family  
33 therapy or other clinically focused discipline, or an equivalent  
34 degree from an institution of higher learning that is recognized  
35 by the department, holds a valid advanced certification from a  
36 CPTO as described in paragraph (5), and has completed all of the  
37 following:

38 (1) Six hours of education in clinical supervision techniques.

39 (2) Sixteen hours of education on operating an independent  
40 counseling practice, including both of the following:

1 (A) Six hours of education in the subject of law and ethics as it  
2 relates to a licensee's ability to practice alcohol and other drug  
3 abuse counseling safely. This education may include, but shall not  
4 be limited to, education in the legal and regulatory aspects of  
5 chemical dependency treatment, regulatory restrictions,  
6 confidentiality, issues surrounding clients' rights, and standards  
7 of competency for the practice of alcohol and other drug abuse  
8 counseling.

9 (B) Ten hours of education in the recognition of co-occurring  
10 disorders, referral processes, and the evaluation of clients using  
11 placement criteria, such as the ASAM Patient Placement Criteria  
12 or other validated clinical tools, to determine the most appropriate  
13 level of care for the client and eligibility for admission to a  
14 particular alcohol and other drug abuse treatment program.

15 (3) All of the hours of education required by this section may  
16 be gained as part of the education leading to a person's earned  
17 master of arts, master of science, or doctoral degree.

18 (4) (A) Submitted to a state and federal level criminal offender  
19 record information search not later than June 30, 2012, and passed  
20 both background checks as specified in Section 11976.35.

21 (B) Paid the required fees as specified in Section 11977.15.

22 (C) Completed the application for a license.

23 (5) For the purpose of this subdivision, an "advanced  
24 certification" issued by a CPTO shall include the following  
25 minimum requirements:

26 (A) Three hundred fifteen hours of formal instruction in alcohol  
27 and other drug abuse counseling.

28 (B) Six thousand hours of work experience as an alcohol and  
29 other drug abuse counselor.

30 (b) (1) Passed a test prior to January 1, 2012, that is recognized  
31 by a CPTO, and is sufficient to verify the skill and knowledge  
32 determined by an applicable job task analysis.

33 (2) Completed a course of education as described in Section  
34 11975.45 that includes at least 315 hours of classroom instruction  
35 in alcohol and other drug abuse counseling, including, but not  
36 limited to, a 45-hour classroom practicum course offered by a  
37 provider approved by the CPTO.

38 (3) Completed 10,000 hours of work experience that is within  
39 the scope of practice of a counselor specified in Section 11975.75  
40 as a certified counselor and as verified by a CPTO prior to the

1 date the application for licensure was filed, and is currently  
2 certified as a counselor by a CPTO.

3 (4) Completed at least 255 hours of fieldwork in a clinically  
4 supervised practicum approved by a CPTO.

5 (5) Completed at least six hours of education in supervision  
6 techniques.

7 (6) Completed at least six hours of education in the subject of  
8 law and ethics as it relates to a licensee's ability to practice alcohol  
9 and other drug abuse counseling safely. This education may  
10 include, but shall not be limited to, education in the legal and  
11 regulatory aspects of chemical dependency treatment, regulatory  
12 restrictions, confidentiality, issues surrounding clients' rights, and  
13 standards of competency for the practice of alcohol and other drug  
14 abuse counseling.

15 (7) Completed at least 10 hours of education in the recognition  
16 of co-occurring disorders, referral processes, and the evaluation  
17 of clients using placement criteria, such as the ASAM Patient  
18 Placement Criteria, to determine the most appropriate level of  
19 care for a client and a client's eligibility for admission to a  
20 particular alcohol and other drug abuse treatment program.

21 (8) Sixteen hours of education on operating an independent  
22 counseling practice.

23 11975.42. Commencing January 1, 2012, the department shall  
24 issue a Licensed Alcohol and Other Drug Counselor (LAODC)  
25 license, within 30 business days, to a person who has met all of  
26 the following requirements:

27 (a) Possesses an earned master of arts, master of science, or  
28 doctoral degree in alcohol and drug counseling, psychology, social  
29 work, marriage, family and child counseling, marital and family  
30 therapy or other clinically focused major, or an equivalent degree  
31 recognized by the department from an institution of higher  
32 learning, and meets the requirements of a certified counselor  
33 pursuant to Section 11975.35.

34 (b) Completed all of the following:

35 (1) Forty hours of education in clinical supervision techniques.

36 (2) A minimum of 65 hours of education on operating an  
37 independent counseling practice, including both of the following:

38 (A) Twenty hours of education in the subject of law and ethics  
39 as it relates to a licensee's ability to practice alcoholism and drug  
40 abuse counseling safely. This education may include, but shall not



1 *be limited to, education in the legal and regulatory aspects of*  
2 *chemical dependency treatment including the scope of practice*  
3 *restrictions specified in Section 11975.75, regulatory restrictions,*  
4 *confidentiality, issues surrounding clients' rights, and standards*  
5 *of competency for the practice of alcohol and other drug abuse*  
6 *counseling.*

7 *(B) Forty-five hours of education in psychopathology, including*  
8 *co-occurring disorders, referral processes, and the evaluation of*  
9 *clients using placement criteria, such as the ASAM Patient*  
10 *Placement Criteria or other validated clinical tools, to determine*  
11 *the most appropriate level of care for the client and eligibility for*  
12 *admission to a particular alcohol and other drug abuse treatment*  
13 *program.*

14 *(c) Passed a test administered by a CPTO as specified in Section*  
15 *11975.50.*

16 *(d) Completed a supervised practicum required by the institution*  
17 *of higher learning that awarded the applicant his or her degree.*

18 *(e) Completed 3,120 hours of work experience as specified in*  
19 *Section 11975.60 which hours shall be inclusive of the hours spent*  
20 *in the practicum specified in subdivision (d) and the 2,080 work*  
21 *experience hours specified in Section 11975.60.*

22 *(f) Submitted to a state and federal level criminal offender*  
23 *record information search and passed both background checks as*  
24 *specified in Section 11976.35.*

25 *(g) Paid the required fees as specified in Section 11977.15.*

26 *(h) Completed and submitted an application for a license and*  
27 *satisfied all other requirements of this part for licensure as an*  
28 *LAODC.*

29 *(i) Completed at least six hours of education in supervision*  
30 *techniques.*

31 *(j) All of the hours of education required by this section may be*  
32 *gained as part of the education leading to a person's earned master*  
33 *of arts, master of science, or doctoral degree.*

34 *11975.45. The curriculum for educational qualifications*  
35 *required for registration, certification, or licensure pursuant to*  
36 *this part shall, at a minimum, meet the requirements as determined*  
37 *by the TAP 21 for all counselors, and by the TAP 21A for*  
38 *counselors at the LAODC level.*

39 *11975.50. A test developed or recognized by a CPTO shall*  
40 *meet, at a minimum, all of the following criteria:*

1 (a) Sufficient to examine and verify the appropriate level of  
2 skills and knowledge as described in the TAP 21 or TAP 21A and  
3 the job task analysis created specifically for the level of  
4 certification and licensure intended.

5 (b) Psychometrically validated to cover the curriculum and the  
6 skills and knowledge required by this part including the  
7 competencies determined by the TAP 21 and TAP 21A for CAODCs  
8 and LAODCs.

9 (c) Administered at a frequency and under conditions providing  
10 reasonable access and security.

11 (d) Maintained in accordance with industry standards,  
12 including, but not limited to, revalidating every five years,  
13 performing a cut score validated annually to maintain validity,  
14 and maintaining an annual question bank maintenance.

15 (e) Protected, to the best of the CPTO's ability, the integrity of  
16 the testing instruments utilized and shall maintain a plan of action  
17 to respond to a compromised test. A CPTO shall report test  
18 compromises to the department with the documented incident and  
19 plan of action within five business days of discovering a  
20 compromising incident.

21 11975.60. The work experience required by this part shall meet  
22 all of the following criteria:

23 (a) Except for the work experience provisions specified in  
24 subdivision (j) of Section 11975.42, no hours of experience may  
25 be gained more than six years prior to the date the application for  
26 registration, certification, or licensure, as applicable, was filed,  
27 except as specifically provided in this part, unless a CPTO makes  
28 a determination regarding an individual for whom a hardship  
29 exists, in which case the CPTO may allow up to two additional  
30 years to gain the work experience.

31 (b) Work experience shall not be gained as an independent  
32 contractor.

33 (c) Clinical supervision of registrants and interns conducted  
34 pursuant to this section shall include at least one hour of direct  
35 supervisor contact during each 40-hour work period, and must be  
36 conducted while the registrants or interns are performing services  
37 that are within the scope of practice of a counselor specified in  
38 Section 11975.75.

39 (d) For purposes of this section "one hour of direct supervisor  
40 contact" means either of the following:

1     (1) One hour of face-to-face contact on an individual basis  
2     during counseling periods or during provision of other services  
3     specified in Section 11975.75.

4     (2) Two hours of face-to-face contact during counseling periods  
5     or during the provision of other services specified in Section  
6     11975.75, with a group that includes not more than five registrants  
7     or interns.

8     (d) Work experience may be completed in any setting that meets  
9     both of the following:

10    (1) Lawfully and regularly provides alcohol and other drug  
11    counseling.

12    (2) Provides clinical supervision to ensure that the registrant's  
13    or intern's work at the setting meets the requirements set forth in  
14    this part and is within the scope of practice for the profession as  
15    specified in Section 11975.75.

16    (e) Clinical supervision hours required of registrants to become  
17    eligible for certification shall be supervised by a licensed or  
18    certified counselor who has 6,000 hours of work experience that  
19    is within the scope of practice of a counselor specified in Section  
20    11975.75 and who is approved by a CPTO for supervising  
21    registrants in a facility licensed or in a program certified by the  
22    department. Interns seeking to meet the qualifications for licensure  
23    may only gain clinical supervision hours by an LAODC or by a  
24    person who is licensed under applicable provisions described in  
25    Section 11975.65.

26    (f) (1) Two thousand eighty hours of work experience credited  
27    toward licensure may only be acquired in a setting in which a  
28    certified counselor is physically present.

29    (2) (A) Before beginning the remaining 1,040 hours of work  
30    experience required for licensure, a candidate for licensure shall  
31    register as an intern with a CPTO. The remaining 1,040 experience  
32    hours for licensure specified in Section 11975.40 shall be gained  
33    under the clinical supervision of an LAODC, or any of the  
34    following licensed professionals:

35    (i) A physician licensed by the Medical Board of California.

36    (ii) A psychologist licensed by the Board of Psychology.

37    (iii) A clinical social worker or marriage and family therapist  
38    licensed by the California Board of Behavioral Sciences.

39    (iv) Another licensed mental health professional specified by  
40    the department by regulation.

1 (B) A CAODC performing services in a private practice setting  
2 shall be supervised by a person who is either an LAODC, a  
3 marriage and family therapist, a licensed clinical social worker,  
4 a licensed psychologist, a licensed physician and surgeon certified  
5 in psychiatry by the American Board of Psychiatry and Neurology,  
6 or a physician and surgeon who has completed a residency but is  
7 not yet board certified in psychiatry. All clinical supervisors of  
8 registrants and interns seeking hours for licensure shall have at  
9 least 6,000 hours of direct treatment experience in substance abuse  
10 and addiction.

11 (C) A person supervising a certified alcohol and other drug  
12 abuse counselor or intern shall have a written agreement with the  
13 supervisee describing the planned hours of practice, supervision  
14 schedule, nature of work assignments, and other specifications  
15 that the supervisor reasonably deems appropriate to the  
16 supervisee's level of training.

17 (D) A person supervising a certified alcohol and other drug  
18 abuse counselor or intern shall evaluate a supervisee at least  
19 annually, emphasizing his or her strengths and shortcomings as  
20 well as areas in which the supervisee should pursue additional  
21 knowledge or skill development. These evaluations shall be signed  
22 by both the supervisor and the supervisee and copies shall be  
23 retained by both for seven years. The department may request  
24 copies of these evaluations.

25 (E) Clinical supervision conducted pursuant to this paragraph  
26 shall include at least 50 hours of face-to-face supervision per year.  
27 As necessary, clinical supervisors shall make themselves available  
28 to each supervisee for face-to-face consultations or consultations  
29 via telephone or other electronic means.

30 (F) A clinical supervisor shall be limited to no more than five  
31 supervisees at a time, unless specifically authorized by the CPTO,  
32 to supervise additional supervisees.

33 (g) Supervisors who are certified counselors but who do not  
34 hold an LAODC license shall complete the supervision  
35 requirements of a CPTO which shall include 40 hours of education  
36 in the subject matter covered by the TAP 21 as specified in Section  
37 11975.45. CPTOs shall require alcohol and other drug supervisors  
38 to have at least three years experience.

39 (h) Total work experience hours shall be gained in each of the  
40 service areas that are within the scope of practice of a counselor

1 *specified in Section 11975.75, approximately in ratios normally*  
2 *engaged in by those currently working in the field.*

3 *(i) Work experience may be gained solely as part of the position*  
4 *or positions in which the individual volunteers or is employed.*

5 *(j) All persons shall be registered with or be certified by the*  
6 *department in order to be credited for the work experience*  
7 *necessary for certification or licensure.*

8 *11975.65. Nothing in this part shall be construed to constrict,*  
9 *limit, or withdraw the Medical Practice Act (Chapter 5*  
10 *(commencing with Section 2000)), the Nursing Practice Act*  
11 *(Chapter 6 (commencing with Section 2700)), the Psychology*  
12 *Licensing Act (Chapter 6.6 (commencing with Section 2900)), the*  
13 *Marriage and Family Therapist Act (Chapter 13 (commencing*  
14 *with Section 4980)), the Clinical Social Worker Practice Act*  
15 *(Chapter 14 (commencing with Section 4991)) of Division 2 of the*  
16 *Business and Professions Code, or Substance Abuse Professionals*  
17 *as defined by the United States Department of Transportation.*

18 *11975.70. This part shall not apply to any of the following,*  
19 *provided that this exception shall not preclude the department*  
20 *from considering any conduct in any setting in its determination*  
21 *of fitness for registration, certification, or licensure or in any*  
22 *disciplinary matter.*

23 *(a) A person who engages in the practice of alcohol and drug*  
24 *counseling exclusively as an employee or volunteer of an agency*  
25 *of the Armed Forces of the United States.*

26 *(b) A person who is an unpaid member of a peer or self-help*  
27 *group who performs peer group or self-help activities if the person*  
28 *does not use a title stating or implying that he or she is a licensed*  
29 *alcohol and other drug counselor or any other designation listed*  
30 *in Section 11975.85.*

31 *(c) A cleric or other religious leader who provides spiritual*  
32 *advice and guidance to members of his or her congregation or*  
33 *order, or to other persons, if it is free of charge.*

34 *(d) A director, officer, or staff member of a program described*  
35 *in Section 8001 of the Penal Code.*

36 *(e) A person who is providing alcohol and other drug abuse*  
37 *counseling services while practicing a profession licensed by the*  
38 *State of California under the Medical Practice Act (Chapter 5*  
39 *(commencing with Section 2000)), the Nursing Practice Act*  
40 *(Chapter 6 (commencing with Section 2700)), the Psychology*

1 *Licensing Act (Chapter 6.6 (commencing with Section 2900)), the*  
2 *Marriage and Family Therapist Act (Chapter 13 (commencing*  
3 *with Section 4980)), the Clinical Social Worker Practice Act*  
4 *(Chapter 14 (commencing with Section 4991)) of Division 2 of the*  
5 *Business and Professions Code, or Substance Abuse Professionals*  
6 *as defined by the United States Department of Transportation.*

7 11975.75. (a) *An individual licensed, registered, or certified*  
8 *under this part may engage in the practice of alcohol and other*  
9 *drug abuse counseling. Alcohol and other drug abuse counseling*  
10 *is the application of counseling approaches and methods derived*  
11 *from alcohol and drug theory and research, for the purpose of*  
12 *treating alcohol and other drug abuse problems, the practice of*  
13 *which conforms to the practitioner's level of training, education,*  
14 *and experience.*

15 (b) *A counselor or registrant may perform the acts listed in this*  
16 *section only for the purpose of treating alcohol and other drug*  
17 *problems.*

18 (c) *For purposes of this part, "alcohol and other drug abuse*  
19 *counseling" means performing any of the following services for*  
20 *the purpose of treating alcohol and other drug abuse:*

21 (1) *Screening. The process by which a client is determined to*  
22 *be eligible for admission to a particular alcohol and other drug*  
23 *abuse treatment program.*

24 (2) *Initial intake. The administrative and initial assessment*  
25 *procedures for admission to an alcohol and other drug abuse*  
26 *treatment program. Assessment shall not include psychological*  
27 *testing intended to measure or diagnose mental illness.*

28 (3) *Orientation. Describing to the client the general nature and*  
29 *goals of the alcohol and other drug abuse treatment program,*  
30 *including rules governing client conduct and infractions that can*  
31 *lead to disciplinary action or discharge from the program.*

32 (4) *Alcohol and other drug abuse counseling, including*  
33 *individual, group, and significant others. The utilization of special*  
34 *skills to assist individuals, families, or groups in achieving*  
35 *objectives through exploration of a problem and its ramifications,*  
36 *examination of attitudes and feelings, considerations of alternative*  
37 *solutions, and decision making as each relates to substance abuse.*  
38 *Counseling shall be limited to assisting a client in learning more*  
39 *about himself or herself for the purposes of understanding how to*  
40 *effectuate clearly perceived, realistically defined goals related to*

1 *abstinence. Counseling is limited to assisting the client to learn*  
2 *or acquire new skills that will enable the client to cope and adjust*  
3 *to life situations without the use of substances.*

4 (5) *Case management. Activities that bring services, agencies,*  
5 *resources, or individuals together within a planned framework of*  
6 *action toward achievement of established goals. It may involve*  
7 *liaison activities and collateral contacts.*

8 (6) *Crisis intervention. Those services that respond to an alcohol*  
9 *or drug abuser's needs during acute emotional or physical distress,*  
10 *including, but not limited to, referrals for assessment of the client's*  
11 *need for additional psychological or medical treatment for client*  
12 *behaviors that signal risk or prolonged distress.*

13 (7) *Assessment. Those procedures by which a counselor or*  
14 *program identifies and evaluates an individual's strengths,*  
15 *weaknesses, problems, and needs for the development of the*  
16 *alcohol and other drug abuse treatment plan.*

17 (8) *Treatment planning. The process by which the counselor*  
18 *and the client identify and rank problems needing resolution,*  
19 *establish agreed-upon immediate and long-term goals, and decide*  
20 *on a treatment process and the resources to be utilized.*

21 (9) *Client education. Providing information to individuals and*  
22 *groups concerning alcohol and other drugs of abuse and the*  
23 *services and resources available.*

24 (10) *Referral. Identifying the needs of the client that cannot be*  
25 *met by the counselor or agency, as well as assisting the client in*  
26 *utilizing the support systems and community resources available.*

27 (11) *Reports and recordkeeping. Documenting the client's*  
28 *progress in achieving the client's goals.*

29 (12) *Consultation with other professionals with regard to client*  
30 *treatment or services. Communicating with other professionals to*  
31 *ensure comprehensive, quality care for the client.*

32 (d) *A licensee, certified counselor, or registrant may perform*  
33 *the acts listed in this section only for the purpose of treating*  
34 *alcohol and other drug abuse and only within a program that is*  
35 *certified or a facility that is licensed by the department, or within*  
36 *an independent counseling practice if performed in accordance*  
37 *with applicable provisions of this part.*

38 (e) *The department shall not require the hiring or contractual*  
39 *retention of one or more LAODCs as a condition of licensing a*  
40 *facility or certifying a program. A state or local governmental*

1 agency shall not require a licensed facility or certified program  
2 to hire or contractually retain one or more LAODCs as a condition  
3 of allocating funds to or making contracts with licensed facilities  
4 or certified programs.

5 11975.77. A licensee who operates an independent counseling  
6 practice shall refer any client assessed as needing additional  
7 services not within the scope of practice as specified in Section  
8 11975.75 to another licensed professional, as appropriate.

9 11975.80. The department shall issue a license, registration,  
10 or certification to each applicant meeting the requirements of this  
11 part, that license or certification permits the holder to engage in  
12 alcohol and other drug counseling as defined in Section 11975.75,  
13 entitles the holder to use the title of licensed, registered, or certified  
14 alcohol and other drug counselor, as applicable, and authorizes  
15 the holder to hold himself or herself out as qualified to perform  
16 the functions delineated by this part, subject to any limitations  
17 relating to the level of the license, registration, or certification or  
18 other conditions that may be imposed by the department. The form  
19 and content of the license, registration, or certification shall be  
20 determined by the department.

21 11975.85. A person who has received a certificate, registration,  
22 or license under this part may use the title "Certified Alcohol and  
23 Other Drug Counselor" or "CAODC," "Registered Alcohol and  
24 Other Drug Counselor" or "RAODC," or "Licensed Alcohol and  
25 Other Drug Counselor" or "LAODC," in accordance with the  
26 type of certificate, registration, or license possessed. Every person  
27 who styles himself or herself or who holds himself or herself out  
28 to be a Certified Alcohol and Other Drug Counselor, Registered  
29 Alcohol and Other Drug Counselor, or Licensed Alcohol and Other  
30 Drug Counselor without holding a license or certification in good  
31 standing under this part, is guilty of a misdemeanor.

32 11975.90. (a) It is unlawful for a person to engage in the  
33 practice of alcohol and other drug counseling unless at the time  
34 of so doing the person holds a valid, unexpired, and unrevoked  
35 certificate, registration, or license under this part, excluding such  
36 practice by a person who is exempt pursuant to Section 11975.70  
37 or by a person who is eligible to become certified or licensed  
38 pursuant to the provisions of Sections 11975.35 or 11975.40.

39 (b) It is unlawful to engage in the unsupervised practice of  
40 alcohol and other drug abuse counseling by a person who is



1 registered or certified under this part outside of a facility exempted  
2 by this part, or that is licensed or certified by the department or  
3 that is an independent counseling practice, unless at the time of  
4 doing so, a person holds a valid, unexpired, and unrevoked license  
5 issued by the department under this part.

6 (c) Nothing in this part shall be construed to mean that  
7 counselors and staff working in a facility licensed or certified by  
8 the State Department of Alcohol and Drug Programs are required  
9 to obtain a license.

10 (d) This section shall become operative on January 1, 2013.

11 11975.95. The department may deny, revoke, suspend, or  
12 impose conditions upon a license, certification, or registration,  
13 for unprofessional conduct. Unprofessional conduct, includes, but  
14 is not limited to, any of the following:

15 (a) The conviction of a crime that permits denial of a license,  
16 certification, or registration pursuant to Section 11976.45 or which  
17 the department finds is substantially related to the practice of  
18 alcohol and other drug counseling.

19 (b) Securing a license, certification, or registration by fraud,  
20 deceit, or misrepresentation on any application submitted to the  
21 department, whether engaged in by an applicant for a license,  
22 certification, or registration, or in support of any application by  
23 another.

24 (c) Unlawfully administering to himself or herself any controlled  
25 substance as defined in Section 4021 of the Business and  
26 Professions Code, or using any of the dangerous drugs or devices  
27 specified in Section 4022 of the Business and Professions Code or  
28 using any alcoholic beverage to the extent, or in a manner, as to  
29 be dangerous or injurious to the person applying for a license,  
30 certification, or registration, or holding a license, certification,  
31 or registration under this part, or to any other person, or to the  
32 public, or, to the extent that the use impairs the ability of the person  
33 applying for or holding a license, certification, or registration, to  
34 conduct with safety to the public the counseling authorized by this  
35 part. The department may deny an application for a license,  
36 certification, or registration, or may revoke the license,  
37 certification, or registration of any person who unlawfully uses  
38 or offers to use a controlled substance as defined in Section 4021  
39 of the Business and Professions Code, a dangerous drug or device  
40 specified in Section 4022 of the Business and Professions Code,

1 *or alcohol in the course of performing alcohol and other drug*  
2 *counseling. This provision does not apply to any person also*  
3 *licensed as a physician and surgeon under Chapter 5 (commencing*  
4 *with Section 2000) of the Business and Professions Code or the*  
5 *Osteopathic Act who lawfully prescribes drugs to a patient under*  
6 *his or her care.*

7 *(d) Gross negligence or incompetence in the performance of*  
8 *alcohol and other drug counseling.*

9 *(e) Violating, attempting to violate, or conspiring to violate this*  
10 *part or any regulation adopted by the department.*

11 *(f) Misrepresentation as to the type or status of a license,*  
12 *certification, or registration held by the person, or otherwise*  
13 *misrepresenting or permitting misrepresentation of his or her*  
14 *education, professional qualifications, or professional affiliations*  
15 *to any person or entity.*

16 *(g) Impersonation of another by any counselor or registrant,*  
17 *or applicant for a license, certification, or registration, or, in the*  
18 *case of a counselor, allowing any other person to use his or her*  
19 *license, certification, or registration.*

20 *(h) Aiding or abetting any unlicensed, uncertified, or*  
21 *unregistered person to engage in conduct for which a license,*  
22 *certification, or registration is required under this part.*

23 *(i) Intentionally or recklessly causing physical or emotional*  
24 *harm to any client or verbally, physically, or sexually harassing,*  
25 *threatening, or abusing any participant, patient, resident, their*  
26 *family members, other persons who are significant to them, or*  
27 *other staff members.*

28 *(j) The commission of any dishonest, corrupt, or fraudulent act*  
29 *substantially related to the qualifications, functions, or duties of*  
30 *a counselor or registrant.*

31 *(k) Engaging in sexual relations with a client or with a former*  
32 *client within two years from the termination date of therapy with*  
33 *the client, soliciting sexual relations with a client, or committing*  
34 *an act of sexual abuse, or sexual misconduct with a client, or*  
35 *committing an act punishable as a sexually related crime, if that*  
36 *act or solicitation is substantially related to the qualifications,*  
37 *functions, or duties of an alcohol and other drug counselor.*

38 *(l) Engaging in a social or business relationship with clients,*  
39 *program participants, patients, or residents, or other persons*

1 *significant to them while they are in treatment and exploiting*  
2 *former clients, program participants, patients, or residents.*

3 *(m) Performing, or holding oneself out as being able to perform,*  
4 *or offering to perform, or permitting any licensee under supervision*  
5 *to perform any professional services beyond the scope of the license*  
6 *authorized by this part.*

7 *(n) Failure to maintain confidentiality, except as otherwise*  
8 *required or permitted by law, including, but not limited to, Part 2*  
9 *(commencing with Section 2.1) of Subchapter A of Chapter 1 of*  
10 *Title 42 of the Code of Federal Regulations.*

11 *(o) Prior to the commencement of treatment, failing to disclose*  
12 *to the client or prospective client the fee to be charged for the*  
13 *professional services, or the basis upon which that fee will be*  
14 *computed.*

15 *(p) Paying, accepting, or soliciting any consideration,*  
16 *compensation, or remuneration, whether monetary or otherwise,*  
17 *for the referral of professional clients. All consideration,*  
18 *compensation, or remuneration shall be in relation to professional*  
19 *counseling services actually provided by the licensee. Nothing in*  
20 *this subdivision shall prevent collaboration among two or more*  
21 *licensees in a case or cases. However, no fee shall be charged for*  
22 *that collaboration, except when disclosure of the fee has been*  
23 *made in compliance with subdivision (o).*

24 *(q) Advertising or using a name in a manner that is false,*  
25 *misleading, or deceptive.*

26 *(r) Conduct in the clinical supervision of any individual licensed,*  
27 *certified, or registered counselor that violates this part or rules*  
28 *or regulations adopted by the department.*

29 *(s) Failure to keep records consistent with sound professional*  
30 *judgment, the standards of the profession, and the nature of the*  
31 *services being rendered.*

32 *(t) Failure to comply with the child abuse reporting*  
33 *requirements of Section 11166 of the Penal Code.*

34 *(u) Failure to comply with the elder and dependent adult abuse*  
35 *reporting requirements of Section 15630 of the Welfare and*  
36 *Institutions Code.*

37 *(v) Willful denial of access to client records as otherwise*  
38 *provided by law.*

1 (w) A registrant or certified counselor shall not receive any  
2 remuneration from patients or clients, and shall be paid only by  
3 his or her employer.

4 11976.10. The department shall revoke a license, certification,  
5 or registration issued under this part upon a decision made in  
6 accordance with the procedures set forth in the adjudication  
7 provisions of the Administrative Procedure Act (Chapter 5  
8 (commencing with Section 11500) of Part 1 of Division 3 of Title  
9 2 of the Government Code) that contains any finding of fact that  
10 the counselor or registrant engaged in any act of sexual contact,  
11 as defined in Section 729 of the Business and Professions Code,  
12 when that act is with a client, or with a former client when the  
13 relationship was terminated primarily for the purpose of engaging  
14 in that act. The revocation shall not be stayed by the administrative  
15 law judge or the department.

16 11976.15. The department may deny an application, or may  
17 suspend or revoke a license, certification, or registration issued  
18 under this part, for denial of licensure, revocation, suspension,  
19 restriction, or other disciplinary action imposed by another state  
20 or territory of the United States, or by any other governmental  
21 agency, on a license, certificate, or registration to practice alcohol  
22 and other drug counseling or other healing art. A certified copy  
23 of the disciplinary action decision or judgment shall be conclusive  
24 evidence of that action.

25 11976.20. The director may temporarily suspend a license,  
26 certification, or registration prior to a hearing when, in the opinion  
27 of the director, the action is necessary to protect a client from  
28 physical or mental abuse, abandonment, or other substantial threat  
29 to health or safety. The director shall give notice of the temporary  
30 suspension and the effective date of the temporary suspension and,  
31 at the same time, shall serve an accusation. Upon receipt of a  
32 notice of defense to the accusation, the director shall, within 15  
33 days, set the matter for hearing, and the hearing shall be held as  
34 soon as possible. The temporary suspension shall remain in effect  
35 until the time the hearing is completed and the director has made  
36 a final determination on the need for the temporary suspension to  
37 remain in place pending resolution of the accusation. However,  
38 the temporary suspension shall be deemed vacated if the director  
39 fails to make a final determination on the merits within 30 days  
40 after the hearing, if the director hears the matter personally or

1 *within 30 days after the department receives the proposed decision*  
2 *from the Office of Administrative Hearings, or if the matter is*  
3 *heard by a hearing officer.*

4 *11976.25. (a) A person who has applied for or received a*  
5 *license, certification, or registration from the department under*  
6 *this part has the right to appeal an adverse decision of the*  
7 *department with regard to his or her application, license,*  
8 *certificate, or registration.*

9 *(b) Unless the department specifies additional or different due*  
10 *process provisions by regulation, an appeal shall be determined*  
11 *in accordance with the adjudication provisions of the*  
12 *Administrative Procedure Act (Chapter 5 (commencing with*  
13 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*  
14 *Code).*

15 *11976.30. An applicant who fails an examination administered*  
16 *by the CPTO may retake that examination in accordance with*  
17 *procedures established by the CPTO.*

18 *11976.35. (a) An applicant for a license, certification, or*  
19 *registration under this part shall consent to a state and federal*  
20 *level criminal offender record information search as part of a*  
21 *criminal history background check. Refusal to consent to the*  
22 *criminal history background check, as delineated in this section,*  
23 *shall result in denial of the license, certification, or registration.*

24 *(b) A CPTO shall require a person applying for registration to*  
25 *submit a live fingerprint scan that does not require direct*  
26 *submission of fingerprints to the Department of Justice. A CPTO*  
27 *shall report the accompanying results of a person's fingerprint*  
28 *scan to the department at the time a CPTO submits a*  
29 *recommendation for certification to the department.*

30 *11976.40. (a) The department shall submit to the Department*  
31 *of Justice fingerprint images and related information required by*  
32 *the Department of Justice for all alcohol and other drug counselor*  
33 *licensure or certification applicants to obtain information on the*  
34 *existence and content of a record of state or federal convictions,*  
35 *state or federal arrests, and the existence and content of a record*  
36 *of state or federal arrests for which the Department of Justice*  
37 *establishes that the person is free on bail or on his or her own*  
38 *recognizance pending trial or appeal.*

39 *(b) When received, the Department of Justice shall forward the*  
40 *relevant information to the Federal Bureau of Investigation and*

1 request a federal criminal history summary. The Department of  
2 Justice shall review the information returned from the Federal  
3 Bureau of Investigation and compile and disseminate a response  
4 to the department.

5 (c) The Department of Justice shall provide a response to the  
6 department pursuant to paragraph (1) of subdivision (p) of Section  
7 11105 of the Penal Code.

8 (d) The department shall request from the Department of Justice  
9 subsequent arrest notification service, as provided pursuant to  
10 Section 11105.2 of the Penal Code, for all license and certification  
11 applicants.

12 (e) The Department of Justice shall charge fees sufficient to  
13 cover the cost of processing the request described in this section.  
14 The applicant shall be responsible for payment of these fees.

15 (f) The applicant shall pay the fee for fingerprint image rolling  
16 and electronic submission charged by the live scan device operator.

17 (g) Before issuing a certification or license, the department  
18 shall ensure that the state and federal level criminal history of the  
19 applicant is reviewed.

20 11976.45. (a) The department shall deny or revoke any  
21 person's license or certification if, at the time of the department's  
22 determination, the person meets one or more of the following  
23 criteria:

24 (1) Subject to subdivision (b), he or she has been convicted of  
25 three or more serious felonies listed in subdivision (c) of Section  
26 1192.7 of the Penal Code. Each conviction must have arisen from  
27 a different incident and all of the incidents resulting in conviction  
28 must have occurred within a single five-year period. The most  
29 recent conviction must have occurred less than five years prior to  
30 the date of the department's determination.

31 (2) The person is required to register as a sex offender pursuant  
32 to Section 290 of the Penal Code.

33 (3) Subject to subdivision (b), the person has been convicted of  
34 a violent felony, as defined in Section 667.5 of the Penal Code,  
35 within nine years of the date of the department's determination.

36 (b) After the expiration of three years from the date of  
37 conviction, if a person described in paragraph (1) or (3) of  
38 subdivision (a) is on parole, he or she may be certified or licensed,  
39 upon receipt by the department of written approval of his or her  
40 parole officer or the Board of Parole Hearings, as the Board of

1 *Parole Hearings may provide. The Board of Parole Hearings may*  
2 *withdraw approval with written notice to the counselor and to the*  
3 *department. The counselor's certification or licensure shall be*  
4 *revoked by the department upon receipt of the notice of withdrawal*  
5 *of approval and the counselor shall have no further recourse*  
6 *against the department. The Board of Parole Hearings shall set*  
7 *the procedure for review of the withdrawal of approval. If approval*  
8 *is reinstated, the department shall reinstate the counselor if he or*  
9 *she is otherwise eligible for reinstatement under this part and*  
10 *complies with all applicable requirements.*

11 *(c) The department shall, following consultation with the*  
12 *advisory committee, adopt regulations allowing an individual who*  
13 *has a certificate or license suspended or revoked pursuant to this*  
14 *section to appeal the decision to the Director of Alcohol and Drug*  
15 *Programs. The regulations shall clearly state the responsibility of*  
16 *the appellant and the requirements of the director to render a*  
17 *decision in a timely fashion.*

18 *(d) The department shall prohibit an independent practice,*  
19 *licensed facility, or certified program that serves minor children,*  
20 *or a facility that allows minor children of clients to reside in the*  
21 *facility, from employing, allowing in a licensed facility, or allowing*  
22 *contact with clients of a licensed facility by, an employee,*  
23 *prospective employee, or person who is not a client who meets any*  
24 *of the following criteria:*

25 *(1) The person has engaged in conduct that the department*  
26 *determines is inimical to the health, morals, welfare, or safety of*  
27 *an individual in, or receiving services from, the facility, or to the*  
28 *people of the State of California.*

29 *(2) The person has been denied an exemption to work or to be*  
30 *present in a facility, when that person has been convicted of a*  
31 *crime to which Section 1522 applies.*

32 *(3) The person has engaged in other conduct that would*  
33 *constitute a basis for disciplining a licensee.*

34 *(4) The person is permitted to receive a certification or license*  
35 *under provisions of subdivision (b).*

36 *(e) The department may establish by regulation additional*  
37 *criteria to implement subdivision (d), that may include, standards,*  
38 *exemptions, and terms of rehabilitation, and may include rebuttable*  
39 *presumptions with regard to any of those standards, exemptions,*  
40 *and terms of rehabilitation.*

1     (f) *This section shall become operative on January 1, 2012.*

2     11976.50. (a) *Licenses or certifications issued under this part*  
3 *shall expire two years after the issue date.*

4     (b) *To renew an unexpired license or certification, the counselor*  
5 *shall, on or before the expiration date of the license or certification,*  
6 *complete all of the following actions:*

7       (1) *Apply for a renewal on a form prescribed by the department.*

8       (2) *Pay a renewal fee, to be determined by the department.*

9       (3) *Complete a minimum of 30 hours per year of continuing*  
10 *education, including at least three hours each year relating to*  
11 *ethics and the code of conduct. A minimum of 20 of these hours*  
12 *shall be provided by an approved provider with a CEU provider*  
13 *number. Up to 10 of these hours may include in-service education,*  
14 *presentation of related training, or self-improvement development*  
15 *that focuses on personal and professional growth.*

16      (4) *Notify the department of either of the following:*

17       (A) *If he or she has been convicted of a misdemeanor or felony*  
18 *that permits denial of a license, certification, or registration,*  
19 *pursuant to Section 11976.45, or which the department finds is*  
20 *substantially related to the practice of alcohol and other drug*  
21 *counseling.*

22       (B) *If any disciplinary action has been taken by a regulatory or*  
23 *licensing board, in this or any other state, subsequent to the*  
24 *licensee's last renewal.*

25      (c) *To renew an expired license or certification within three*  
26 *years of its expiration, the counselor shall, as a condition precedent*  
27 *to renewal, do all of the following:*

28       (1) *Apply for renewal on a form prescribed by the department.*

29       (2) *Pay the renewal fees that would have been paid if the license*  
30 *had not been delinquent.*

31       (3) *Pay all delinquency fees.*

32       (4) *Complete the applicable continuing education requirements.*

33       (5) *Notify the department if he or she has been subject to*  
34 *disciplinary action since the last renewal.*

35      (d) *The department shall establish regulations allowing for the*  
36 *reinstatement of a license or certification that is not renewed within*  
37 *three years after its expiration.*

38     11976.55. *A counselor shall display his or her license or*  
39 *certification in a conspicuous place in the counselor's primary*



1 *place of business. The current renewal receipt shall be displayed*  
2 *near the license.*

3 *11976.60. An LAODC who conducts a private practice under*  
4 *a fictitious business name shall not use a name that is false,*  
5 *misleading, or deceptive, and shall inform the client, prior to the*  
6 *commencement of treatment, of the name and license designation*  
7 *of the owner or owners of the practice.*

8 *11976.70. An LAODC shall be required to renew a license or*  
9 *certification that has been suspended. Renewal does not, while the*  
10 *license or certificate remains suspended, change the terms of the*  
11 *suspension and the counselor shall wait until the license or*  
12 *certificate is reinstated pursuant to this part before resuming the*  
13 *activities for which the license or certificate are required.*

14 *11976.80. (a) An LAODC may apply to the department to*  
15 *place his or her license or certification on inactive status. A person*  
16 *who holds an inactive license or certification shall pay a biennial*  
17 *fee of one-half of the active renewal fee and shall be exempt from*  
18 *continuing education requirements specified in paragraph (3) of*  
19 *subdivision (b) of Section 11976.50, but shall otherwise be subject*  
20 *to this part and shall not engage in the practice of alcohol and*  
21 *other drug counseling in this state.*

22 *(b) A counselor on inactive status who has not committed any*  
23 *acts or crimes constituting grounds for denial of licensure or*  
24 *certification may, upon request, have his or her license or*  
25 *certification placed on active status. A person requesting his or*  
26 *her license or certification to be placed on active status at any*  
27 *time during a renewal cycle shall pay a pro rata portion of the*  
28 *renewal fees.*

29 *(c) A person requesting to move from inactive to active status*  
30 *whose license or certification will expire less than one year from*  
31 *the date of the request shall be required to complete 20 hours of*  
32 *continuing education for license or certificate renewal. A person*  
33 *requesting to move from inactive to active status whose license or*  
34 *certification will expire more than one year from the date of the*  
35 *request shall be required to complete 40 hours of continuing*  
36 *education for license or certificate renewal.*

37 *11976.85. A person licensed or certified under this part shall*  
38 *comply with both of the following:*

39 *(a) Provide written notice to the CPTO and department within*  
40 *30 days of any change of his or her residential or work address.*

1 (b) Provide written notice to the department within 30 days of  
2 a name change giving both the old and the new names along with  
3 a copy of the legal document authorizing the name change,  
4 including, but not limited to, a court order or marriage license.

5 11976.90. (a) Except as otherwise provided in this part, an  
6 accusation filed pursuant to Section 11503 of the Government  
7 Code against a person licensed, certified, or registered pursuant  
8 to this part shall be filed within three years from the date the  
9 department discovers the alleged act or omission that is the basis  
10 for disciplinary action or within seven years from the date the  
11 alleged act or omission that is the basis for disciplinary action  
12 occurred, whichever occurs first.

13 (b) An accusation filed against a person licensed, certified, or  
14 registered pursuant to this part alleging the procurement of a  
15 license, certification, or registration by fraud or misrepresentation  
16 is not subject to the limitations set forth in subdivision (a).

17 (c) An accusation alleging sexual misconduct shall be filed  
18 within three years after the department discovers the act or  
19 omission alleged as the grounds for disciplinary action or within  
20 10 years after the act or omission alleged as the grounds for  
21 disciplinary action occurred, whichever occurs first.

22 (d) If an alleged act or omission involves a minor, the seven-year  
23 limitation period provided for by subdivision (a) and the 10-year  
24 limitation period provided for by subdivision (c) shall be tolled  
25 until the minor reaches the age of majority.

26 (e) The limitation period provided by subdivision (a) shall be  
27 tolled during any period if material evidence necessary for  
28 prosecuting or determining whether a disciplinary action would  
29 be appropriate is unavailable to the department due to an ongoing  
30 criminal investigation.

31 (f) For purposes of this section, “discovers” means the latest  
32 of the occurrence of any of the following with respect to each act  
33 or omission alleged as the basis for disciplinary action:

34 (1) The date the department received a complaint or report  
35 describing the act or omission.

36 (2) The date, subsequent to the original complaint or report,  
37 on which the department became aware of additional acts or  
38 omissions alleged as the basis for disciplinary action relating to  
39 the original complaint or report against the individual.

1     (3) *The date the department receives from the complainant a*  
2 *written release of information pertaining to the complainant's*  
3 *diagnosis and treatment.*

4     11976.95. (a) *Nothing in this part shall apply to an alcohol*  
5 *and other drug counselor who is in this state for either of the*  
6 *following reasons:*

7         (1) *The person is in actual consultation with a practitioner*  
8 *licensed in this state.*

9         (2) *The person is an invited guest of a professional association*  
10 *or an educational institution, is in the state for the sole purpose*  
11 *of engaging in professional education through lectures, clinics,*  
12 *or demonstrations, and is, at the time of the consultation, lecture,*  
13 *or demonstration, licensed to practice alcohol and other drug*  
14 *counseling in the state or country in which he or she resides.*

15         (b) *Alcohol and other drug counselors in the state pursuant to*  
16 *subdivision (a) shall not open an office or appoint a place to meet*  
17 *clients or receive calls from clients within this state.*

18     11976.97. (a) *Education and work experience gained outside*  
19 *of California may be accepted toward the licensure or certification*  
20 *requirements if it is substantially the equivalent of the requirements*  
21 *of this part.*

22         (b) *The department shall issue a license or certification to a*  
23 *person who, at the time of application, meets all of the following*  
24 *requirements:*

25             (1) *Has held a valid active alcohol and other drug counseling*  
26 *license or certification issued by a board of alcohol and other drug*  
27 *counseling examiners or corresponding authority of another state.*

28             (2) *Passes a current applicable examination.*

29             (3) *Pays the required fees.*

30             (4) *Passes the required background check.*

31             (5) *Is not subject to denial of licensure or certification under*  
32 *this part.*

33  
34                     CHAPTER 6. FISCAL PROVISIONS  
35

36     11977.10. *The Alcohol and Other Drug Counselors License*  
37 *Fund is hereby established in the State Treasury. All fees and fines*  
38 *collected by the department in accordance with this part shall be*  
39 *deposited in this fund. The money in the fund shall be available to*  
40 *the department, upon appropriation by the Legislature, for the*

1 *purpose of supporting the counselor licensing activities of the*  
2 *department.*

3 *11977.15. (a) The department shall assess the following fees*  
4 *relating to the licensure, certification, or registration of alcohol*  
5 *and other drug counselors:*

6 *(1) The fee for issuance of an initial registration shall be no*  
7 *more than five dollars (\$5).*

8 *(2) The fee for renewal of a registration shall be no more than*  
9 *five dollars (\$5).*

10 *(3) The fee for issuance of an initial certification shall be no*  
11 *more than fifteen dollars (\$15).*

12 *(4) The fee for renewal of a certification shall be no more than*  
13 *fifteen dollars (\$15).*

14 *(5) The fee for issuance of an initial license shall be no more*  
15 *than one hundred twenty-five dollars (\$125).*

16 *(6) The fee for a license renewal shall be no more than*  
17 *twenty-five dollars (\$25).*

18 *(7) The fee for an inactive license or certification renewal shall*  
19 *be no more than twenty-five dollars (\$25).*

20 *(8) The renewal delinquency fee shall be no more than*  
21 *twenty-five dollars (\$25). A person who permits his or her license*  
22 *or certification to expire is subject to the delinquency fee.*

23 *(9) The fee for issuance of a replacement registration, license,*  
24 *or certificate shall be no more than twenty dollars (\$20).*

25 *(10) The fee for issuance of a certificate or letter of good*  
26 *standing shall be no more than twenty-five dollars (\$25).*

27 *(11) The fee for department review of the criminal records*  
28 *information shall be no more than thirty dollars (\$30).*

29 *(12) The fee for the state level criminal offender record*  
30 *information search shall be set by the Department of Justice and*  
31 *the fee for the federal level criminal offender record information*  
32 *search shall be set by the Federal Bureau of Investigation.*

33 *(b) The department shall assess each CPTO quarterly for the*  
34 *requests for registration and certification presented during the*  
35 *previous quarter. A CPTO shall provide payment for registrants*  
36 *and certified counselors within 90 days of receipt of an assessment.*

37 *(c) The department shall assess each CPTO five thousand*  
38 *dollars (\$5,000) every two years for the purposes of reviewing*  
39 *CPTOs and enforcing regulations related to CPTO compliance.*

1     (d) *The department shall assess each CPTO a one-time*  
2     *twenty-five-dollar (\$25) fee for each individual who either received*  
3     *a license pursuant to Section 11975.40 or received a certificate*  
4     *pursuant to Section 11975.35 and who registers with, is certified*  
5     *by, or applies for licensure through, the CPTO between January*  
6     *1, 2012, and December 31, 2012, inclusive, for the purposes of*  
7     *implementing this act.*

8     (e) *This section shall not establish or limit the fees charged for*  
9     *education, examinations, or application preparation or submission.*

10    SEC. 2. *Section 11165.7 of the Penal Code is amended to read:*

11    11165.7. (a) As used in this article, “mandated reporter” is  
12    defined as any of the following:

13    (1) A teacher.

14    (2) An instructional aide.

15    (3) A teacher’s aide or teacher’s assistant employed by any  
16    public or private school.

17    (4) A classified employee of any public school.

18    (5) An administrative officer or supervisor of child welfare and  
19    attendance, or a certificated pupil personnel employee of any public  
20    or private school.

21    (6) An administrator of a public or private day camp.

22    (7) An administrator or employee of a public or private youth  
23    center, youth recreation program, or youth organization.

24    (8) An administrator or employee of a public or private  
25    organization whose duties require direct contact and supervision  
26    of children.

27    (9) Any employee of a county office of education or the State  
28    Department of Education, whose duties bring the employee into  
29    contact with children on a regular basis.

30    (10) A licensee, an administrator, or an employee of a licensed  
31    community care or child day care facility.

32    (11) A Head Start program teacher.

33    (12) A licensing worker or licensing evaluator employed by a  
34    licensing agency as defined in Section 11165.11.

35    (13) A public assistance worker.

36    (14) An employee of a child care institution, including, but not  
37    limited to, foster parents, group home personnel, and personnel of  
38    residential care facilities.

39    (15) A social worker, probation officer, or parole officer.

1 (16) An employee of a school district police or security  
2 department.

3 (17) Any person who is an administrator or presenter of, or a  
4 counselor in, a child abuse prevention program in any public or  
5 private school.

6 (18) A district attorney investigator, inspector, or local child  
7 support agency caseworker unless the investigator, inspector, or  
8 caseworker is working with an attorney appointed pursuant to  
9 Section 317 of the Welfare and Institutions Code to represent a  
10 minor.

11 (19) A peace officer, as defined in Chapter 4.5 (commencing  
12 with Section 830) of Title 3 of Part 2, who is not otherwise  
13 described in this section.

14 (20) A firefighter, except for volunteer firefighters.

15 (21) A physician, surgeon, psychiatrist, psychologist, dentist,  
16 resident, intern, podiatrist, chiropractor, licensed nurse, dental  
17 hygienist, optometrist, marriage, family and child counselor,  
18 clinical social worker, or any other person who is currently licensed  
19 under Division 2 (commencing with Section 500) of the Business  
20 and Professions Code.

21 (22) Any emergency medical technician I or II, paramedic, or  
22 other person certified pursuant to Division 2.5 (commencing with  
23 Section 1797) of the Health and Safety Code.

24 (23) A psychological assistant registered pursuant to Section  
25 2913 of the Business and Professions Code.

26 (24) A marriage, family, and child therapist trainee, as defined  
27 in subdivision (c) of Section 4980.03 of the Business and  
28 Professions Code.

29 (25) An unlicensed marriage, family, and child therapist intern  
30 registered under Section 4980.44 of the Business and Professions  
31 Code.

32 (26) A state or county public health employee who treats a minor  
33 for venereal disease or any other condition.

34 (27) A coroner.

35 (28) A medical examiner, or any other person who performs  
36 autopsies.

37 (29) A commercial film and photographic print processor, as  
38 specified in subdivision (e) of Section 11166. As used in this  
39 article, “commercial film and photographic print processor” means  
40 any person who develops exposed photographic film into negatives,

1 slides, or prints, or who makes prints from negatives or slides, for  
2 compensation. The term includes any employee of such a person;  
3 it does not include a person who develops film or makes prints for  
4 a public agency.

5 (30) A child visitation monitor. As used in this article, “child  
6 visitation monitor” means any person who, for financial  
7 compensation, acts as monitor of a visit between a child and any  
8 other person when the monitoring of that visit has been ordered  
9 by a court of law.

10 (31) An animal control officer or humane society officer. For  
11 the purposes of this article, the following terms have the following  
12 meanings:

13 (A) “Animal control officer” means any person employed by a  
14 city, county, or city and county for the purpose of enforcing animal  
15 control laws or regulations.

16 (B) “Humane society officer” means any person appointed or  
17 employed by a public or private entity as a humane officer who is  
18 qualified pursuant to Section 14502 or 14503 of the Corporations  
19 Code.

20 (32) A clergy member, as specified in subdivision (d) of Section  
21 11166. As used in this article, “clergy member” means a priest,  
22 minister, rabbi, religious practitioner, or similar functionary of a  
23 church, temple, or recognized denomination or organization.

24 (33) Any custodian of records of a clergy member, as specified  
25 in this section and subdivision (d) of Section 11166.

26 (34) Any employee of any police department, county sheriff’s  
27 department, county probation department, or county welfare  
28 department.

29 (35) An employee or volunteer of a Court Appointed Special  
30 Advocate program, as defined in Rule 1424 of the California Rules  
31 of Court.

32 (36) A custodial officer as defined in Section 831.5.

33 (37) Any person providing services to a minor child under  
34 Section 12300 or 12300.1 of the Welfare and Institutions Code.

35 (38) An alcohol and *other* drug counselor. As used in this article,  
36 an “alcohol and drug counselor” is a person providing counseling,  
37 therapy, *counselor* or other clinical services for a state licensed or  
38 certified drug, alcohol, or drug supervisor licensed, certified, or  
39 registered under Part 4 (commencing with Section 11975.10) of  
40 Division 10.5 of the Health and alcohol treatment program Safety

1 *Code*. However, alcohol or drug abuse, or both alcohol and drug  
2 abuse, is not in and of itself a sufficient basis for reporting child  
3 abuse or neglect.

4 (b) Except as provided in paragraph (35) of subdivision (a),  
5 volunteers of public or private organizations whose duties require  
6 direct contact with and supervision of children are not mandated  
7 reporters but are encouraged to obtain training in the identification  
8 and reporting of child abuse and neglect and are further encouraged  
9 to report known or suspected instances of child abuse or neglect  
10 to an agency specified in Section 11165.9.

11 (c) Employers are strongly encouraged to provide their  
12 employees who are mandated reporters with training in the duties  
13 imposed by this article. This training shall include training in child  
14 abuse and neglect identification and training in child abuse and  
15 neglect reporting. Whether or not employers provide their  
16 employees with training in child abuse and neglect identification  
17 and reporting, the employers shall provide their employees who  
18 are mandated reporters with the statement required pursuant to  
19 subdivision (a) of Section 11166.5.

20 (d) School districts that do not train their employees specified  
21 in subdivision (a) in the duties of mandated reporters under the  
22 child abuse reporting laws shall report to the State Department of  
23 Education the reasons why this training is not provided.

24 (e) Unless otherwise specifically provided, the absence of  
25 training shall not excuse a mandated reporter from the duties  
26 imposed by this article.

27 (f) Public and private organizations are encouraged to provide  
28 their volunteers whose duties require direct contact with and  
29 supervision of children with training in the identification and  
30 reporting of child abuse and neglect.

31 *SEC. 3. Section 15630 of the Welfare and Institutions Code is*  
32 *amended to read:*

33 15630. (a) Any person who has assumed full or intermittent  
34 responsibility for the care or custody of an elder or dependent  
35 adult, whether or not he or she receives compensation, including  
36 administrators, supervisors, and any licensed staff of a public or  
37 private facility that provides care or services for elder or dependent  
38 adults, or any elder or dependent adult care custodian, health  
39 practitioner, clergy member, or employee of a county adult  
40 protective services agency or a local law enforcement agency, is



1 a mandated reporter. *An alcohol and other drug counselor or*  
 2 *supervisor licensed, certified, or registered pursuant to Part 4*  
 3 *(commencing with Section 11975.10) of Division 10.5 of the Health*  
 4 *and Safety Code is also a mandated reporter.*

5 (b) (1) Any mandated reporter who, in his or her professional  
 6 capacity, or within the scope of his or her employment, has  
 7 observed or has knowledge of an incident that reasonably appears  
 8 to be physical abuse, as defined in Section 15610.63 of the ~~Welfare~~  
 9 ~~and Institutions Code~~, abandonment, abduction, isolation, financial  
 10 abuse, or neglect, or is told by an elder or dependent adult that he  
 11 or she has experienced behavior, including an act or omission,  
 12 constituting physical abuse, as defined in Section 15610.63 of the ~~Welfare~~  
 13 ~~and Institutions Code~~, abandonment, abduction, isolation,  
 14 financial abuse, or neglect, or reasonably suspects that abuse, shall  
 15 report the known or suspected instance of abuse by telephone  
 16 immediately or as soon as practicably possible, and by written  
 17 report sent within two working days, as follows:

18 (A) If the abuse has occurred in a long-term care facility, except  
 19 a state mental health hospital or a state developmental center, the  
 20 report shall be made to the local ombudsperson or the local law  
 21 enforcement agency.

22 The local ombudsperson and the local law enforcement agency  
 23 shall, as soon as practicable, except in the case of an emergency  
 24 or pursuant to a report required to be made pursuant to clause (v),  
 25 in which case these actions shall be taken immediately, do all of  
 26 the following:

27 (i) Report to the State Department of Public Health any case of  
 28 known or suspected abuse occurring in a long-term health care  
 29 facility, as defined in subdivision (a) of Section 1418 of the Health  
 30 and Safety Code.

31 (ii) Report to the State Department of Social Services any case  
 32 of known or suspected abuse occurring in a residential care facility  
 33 for the elderly, as defined in Section 1569.2 of the Health and  
 34 Safety Code, or in an adult day care facility, as defined in paragraph  
 35 (2) of subdivision (a) of Section 1502.

36 (iii) Report to the State Department of Public Health and the  
 37 California Department of Aging any case of known or suspected  
 38 abuse occurring in an adult day health care center, as defined in  
 39 subdivision (b) of Section 1570.7 of the Health and Safety Code.

1 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse  
2 any case of known or suspected criminal activity.

3 (v) Report all cases of known or suspected physical abuse and  
4 financial abuse to the local district attorney's office in the county  
5 where the abuse occurred.

6 (B) If the suspected or alleged abuse occurred in a state mental  
7 hospital or a state developmental center, the report shall be made  
8 to designated investigators of the State Department of Mental  
9 Health or the State Department of Developmental Services, or to  
10 the local law enforcement agency.

11 Except in an emergency, the local law enforcement agency shall,  
12 as soon as practicable, report any case of known or suspected  
13 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

14 (C) If the abuse has occurred any place other than one described  
15 in subparagraph (A), the report shall be made to the adult protective  
16 services agency or the local law enforcement agency.

17 (2) (A) A mandated reporter who is a clergy member who  
18 acquires knowledge or reasonable suspicion of elder or dependent  
19 adult abuse during a penitential communication is not subject to  
20 paragraph (1). For purposes of this subdivision, "penitential  
21 communication" means a communication that is intended to be in  
22 confidence, including, but not limited to, a sacramental confession  
23 made to a clergy member who, in the course of the discipline or  
24 practice of his or her church, denomination, or organization is  
25 authorized or accustomed to hear those communications and under  
26 the discipline tenets, customs, or practices of his or her church,  
27 denomination, or organization, has a duty to keep those  
28 communications secret.

29 (B) Nothing in this subdivision shall be construed to modify or  
30 limit a clergy member's duty to report known or suspected elder  
31 and dependent adult abuse when he or she is acting in the capacity  
32 of a care custodian, health practitioner, or employee of an adult  
33 protective services agency.

34 (C) Notwithstanding any other provision in this section, a clergy  
35 member who is not regularly employed on either a full-time or  
36 part-time basis in a long-term care facility or does not have care  
37 or custody of an elder or dependent adult shall not be responsible  
38 for reporting abuse or neglect that is not reasonably observable or  
39 discernible to a reasonably prudent person having no specialized  
40 training or experience in elder or dependent care.

1 (3) (A) A mandated reporter who is a physician and surgeon,  
2 a registered nurse, or a psychotherapist, as defined in Section 1010  
3 of the Evidence Code, shall not be required to report, pursuant to  
4 paragraph (1), an incident where all of the following conditions  
5 exist:

6 (i) The mandated reporter has been told by an elder or dependent  
7 adult that he or she has experienced behavior constituting physical  
8 abuse, as defined in Section 15610.63 ~~of the Welfare and~~  
9 ~~Institutions Code~~, abandonment, abduction, isolation, financial  
10 abuse, or neglect.

11 (ii) The mandated reporter is not aware of any independent  
12 evidence that corroborates the statement that the abuse has  
13 occurred.

14 (iii) The elder or dependent adult has been diagnosed with a  
15 mental illness or dementia, or is the subject of a court-ordered  
16 conservatorship because of a mental illness or dementia.

17 (iv) In the exercise of clinical judgment, the physician and  
18 surgeon, the registered nurse, or the psychotherapist, as defined  
19 in Section 1010 of the Evidence Code, reasonably believes that  
20 the abuse did not occur.

21 (B) This paragraph shall not be construed to impose upon  
22 mandated reporters a duty to investigate a known or suspected  
23 incident of abuse and shall not be construed to lessen or restrict  
24 any existing duty of mandated reporters.

25 (4) (A) In a long-term care facility, a mandated reporter shall  
26 not be required to report as a suspected incident of abuse, as defined  
27 in Section 15610.07, an incident where all of the following  
28 conditions exist:

29 (i) The mandated reporter is aware that there is a proper plan  
30 of care.

31 (ii) The mandated reporter is aware that the plan of care was  
32 properly provided or executed.

33 (iii) A physical, mental, or medical injury occurred as a result  
34 of care provided pursuant to clause (i) or (ii).

35 (iv) The mandated reporter reasonably believes that the injury  
36 was not the result of abuse.

37 (B) This paragraph shall not be construed to require a mandated  
38 reporter to seek, nor to preclude a mandated reporter from seeking,  
39 information regarding a known or suspected incident of abuse prior  
40 to reporting. This paragraph shall apply only to those categories

1 of mandated reporters that the State Department of Public Health  
2 determines, upon approval by the Bureau of Medi-Cal Fraud and  
3 Elder Abuse and the state long-term care ombudsperson, have  
4 access to plans of care and have the training and experience  
5 necessary to determine whether the conditions specified in this  
6 section have been met.

7 (c) (1) Any mandated reporter who has knowledge, or  
8 reasonably suspects, that types of elder or dependent adult abuse  
9 for which reports are not mandated have been inflicted upon an  
10 elder or dependent adult, or that his or her emotional well-being  
11 is endangered in any other way, may report the known or suspected  
12 instance of abuse.

13 (2) If the suspected or alleged abuse occurred in a long-term  
14 care facility other than a state mental health hospital or a state  
15 developmental center, the report may be made to the long-term  
16 care ombudsperson program. Except in an emergency, the local  
17 ombudsperson shall report any case of known or suspected abuse  
18 to the State Department of Public Health and any case of known  
19 or suspected criminal activity to the Bureau of Medi-Cal Fraud  
20 and Elder Abuse, as soon as is practicable.

21 (3) If the suspected or alleged abuse occurred in a state mental  
22 health hospital or a state developmental center, the report may be  
23 made to the designated investigator of the State Department of  
24 Mental Health or the State Department of Developmental Services  
25 or to a local law enforcement agency or to the local ombudsperson.  
26 Except in an emergency, the local ombudsperson and the local law  
27 enforcement agency shall report any case of known or suspected  
28 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse,  
29 as soon as is practicable.

30 (4) If the suspected or alleged abuse occurred in a place other  
31 than a place described in paragraph (2) or (3), the report may be  
32 made to the county adult protective services agency.

33 (5) If the conduct involves criminal activity not covered in  
34 subdivision (b), it may be immediately reported to the appropriate  
35 law enforcement agency.

36 (d) When two or more mandated reporters are present and jointly  
37 have knowledge or reasonably suspect that types of abuse of an  
38 elder or a dependent adult for which a report is or is not mandated  
39 have occurred, and when there is agreement among them, the  
40 telephone report may be made by a member of the team selected

1 by mutual agreement, and a single report may be made and signed  
2 by the selected member of the reporting team. Any member who  
3 has knowledge that the member designated to report has failed to  
4 do so shall thereafter make the report.

5 (e) A telephone report of a known or suspected instance of elder  
6 or dependent adult abuse shall include, if known, the name of the  
7 person making the report, the name and age of the elder or  
8 dependent adult, the present location of the elder or dependent  
9 adult, the names and addresses of family members or any other  
10 adult responsible for the elder's or dependent adult's care, the  
11 nature and extent of the elder's or dependent adult's condition, the  
12 date of the incident, and any other information, including  
13 information that led that person to suspect elder or dependent adult  
14 abuse, as requested by the agency receiving the report.

15 (f) The reporting duties under this section are individual, and  
16 no supervisor or administrator shall impede or inhibit the reporting  
17 duties, and no person making the report shall be subject to any  
18 sanction for making the report. However, internal procedures to  
19 facilitate reporting, ensure confidentiality, and apprise supervisors  
20 and administrators of reports may be established, provided they  
21 are not inconsistent with this chapter.

22 (g) (1) Whenever this section requires a county adult protective  
23 services agency to report to a law enforcement agency, the law  
24 enforcement agency shall, immediately upon request, provide a  
25 copy of its investigative report concerning the reported matter to  
26 that county adult protective services agency.

27 (2) Whenever this section requires a law enforcement agency  
28 to report to a county adult protective services agency, the county  
29 adult protective services agency shall, immediately upon request,  
30 provide to that law enforcement agency a copy of its investigative  
31 report concerning the reported matter.

32 (3) The requirement to disclose investigative reports pursuant  
33 to this subdivision shall not include the disclosure of social services  
34 records or case files that are confidential, nor shall this subdivision  
35 be construed to allow disclosure of any reports or records if the  
36 disclosure would be prohibited by any other provision of state or  
37 federal law.

38 (h) Failure to report, or impeding or inhibiting a report of,  
39 physical abuse, as defined in Section 15610.63 of the Welfare and  
40 Institutions Code, abandonment, abduction, isolation, financial

1 abuse, or neglect of an elder or dependent adult, in violation of  
2 this section, is a misdemeanor, punishable by not more than six  
3 months in the county jail, by a fine of not more than one thousand  
4 dollars (\$1,000), or by both that fine and imprisonment. Any  
5 mandated reporter who willfully fails to report, or impedes or  
6 inhibits a report of, physical abuse, as defined in Section 15610.63  
7 of the ~~Welfare and Institutions Code~~, abandonment, abduction,  
8 isolation, financial abuse, or neglect of an elder or dependent adult,  
9 in violation of this section, where that abuse results in death or  
10 great bodily injury, shall be punished by not more than one year  
11 in a county jail, by a fine of not more than five thousand dollars  
12 (\$5,000), or by both that fine and imprisonment. If a mandated  
13 reporter intentionally conceals his or her failure to report an  
14 incident known by the mandated reporter to be abuse or severe  
15 neglect under this section, the failure to report is a continuing  
16 offense until a law enforcement agency specified in paragraph (1)  
17 of subdivision (b) of Section 15630 of the ~~Welfare and Institutions~~  
18 ~~Code~~ discovers the offense.

19 (i) For purposes of this section, “dependent adult” shall have  
20 the same meaning as in Section 15610.23.

21 *SEC. 4. No reimbursement is required by this act pursuant to*  
22 *Section 6 of Article XIII B of the California Constitution because*  
23 *the only costs that may be incurred by a local agency or school*  
24 *district will be incurred because this act creates a new crime or*  
25 *infraction, eliminates a crime or infraction, or changes the penalty*  
26 *for a crime or infraction, within the meaning of Section 17556 of*  
27 *the Government Code, or changes the definition of a crime within*  
28 *the meaning of Section 6 of Article XIII B of the California*  
29 *Constitution.*

30 ~~SECTION 1. Section 21086 of the Public Resources Code is~~  
31 ~~amended to read:~~

32 ~~21086. (a) A public agency may, at any time, request the~~  
33 ~~addition or deletion of a class of projects, to the list designated~~  
34 ~~pursuant to Section 21084. That request shall be made in writing~~  
35 ~~to the Office of Planning and Research and shall include~~  
36 ~~information supporting the public agency’s position that the class~~  
37 ~~of projects does, or does not, have a significant effect on the~~  
38 ~~environment.~~

39 ~~(b) The Office of Planning and Research shall review each~~  
40 ~~request and, as soon as possible, shall submit its recommendation~~

1 to the Secretary of the Natural Resources Agency pursuant to  
2 Sections 21083 and 21084. Following the receipt of that  
3 recommendation, the Secretary of the Natural Resources Agency  
4 may add or delete the class of projects to the list of classes of  
5 projects designated pursuant to Section 21084 that are exempt  
6 from the requirements of this division.

7 (e) The addition or deletion of a class of projects, as provided  
8 in this section, to the list specified in Section 21084 shall constitute  
9 an amendment to the guidelines adopted pursuant to Section 21083  
10 and shall be adopted in the manner prescribed in Sections 21083  
11 and 21084.